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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/408,068

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SHEALY

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EXAMINER

BECKER, D

ART UNIT

PAPER NUMBER

1761

DATE MAILED:

06/15/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/408,068

Applicant(s)

Shealy

Examiner

Drew Becker

Group Art Unit

1761



☒ Responsive to communication(s) filed on Jan 19, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-7 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-7 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 4-6, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

It is not clear in claims 1-4 and 7 how the "improved cooking appliance" of line 1 can also be comprised of "a cooking appliance".

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

4. Claims 1, 3, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Vaseloff et al [Pat. No. 5,186,097].

Vaseloff et al teach a cooking appliance comprising a fry pot (Figure 1, 18), a heating device (Figure 2, 26), a temperature sensor (Figure 2, 34), a control panel (Figure 4), and a computerized controller which monitors the temperature of the heating medium in the fry pot and adjusts the heating device according to a programmed algorithm (abstract; Figures 5A-5F).

5. Claim 2 is rejected under 35 U.S.C. 102(e) as being anticipated by Harter et al [Pat. No. 5,847,365].

Harter et al teach a cooking appliance comprising a fryer (column 1, line 15), a temperature sensor (column 1, line 59), and a control system which compensates for oil stratification (column 2, lines 42-45).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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7. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maher Jr [Pat. No. 6,018,150].

Maher Jr teaches an appliance and method of using the appliance to cook a food product comprising a vat (Figure 1, 8), a burner (Figure 1, 4), a temperature sensor (Figure 1, 2), a controller with means to adjust the cook cycle according to a non-linear compensation (column 13, line 38), and loading a food item into a heating medium followed by cooking it (column 1, lines 29-39). It would have been obvious to one of ordinary skill in the art to adjust the non-linear compensation of Maher Jr according to the particular type of cooking medium, type of food, and level of cooking since these elements require the use of different operating parameters, such as temperature and time.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ceste Sr [Pat. No. 4,812,625], Lehman [Pat. No. 5,090,305], Volz [Pat. No. 4,282,423], Holt et al [Pat. No. 4,601,004], and Meister et al [Pat. No. 5,490,449] teach control systems for deep fryers.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew Becker whose telephone number is (703)-305-0300. The examiner can normally be reached on Monday-Thursday from 7:00 am to 4:00 pm and every other Friday from 7:00 am to 3:00 pm.

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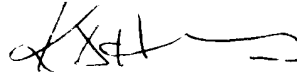
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gabrielle Brouillette, can be reached on (703)-308-0756. The fax number for this Group is (703)-305-3602.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

Drew Becker

June 6, 2000


KEITH HENDRICKS
PRIMARY EXAMINER